

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
DEL RIO DIVISION**

**JASMINE C.**, an individual and on behalf of  
**M.C.**, a minor and her child; **J.P.**, et al.,

*Plaintiffs,*

v.

**DANIEL DEFENSE, LLC; DANIEL  
DEFENSE, INC; OASIS OUTBACK, LLC;  
and DOES 1-300,**

*Defendants.*

**Civil Action No.: 2:23-cv-00014-AM**

**OPPOSITION TO DANIEL DEFENSE, LLC’S AMENDED  
RULE 12(B)(1) MOTION TO DISMISS**

Plaintiffs’ Jasmine C., et al., hereby interposes their Opposition to Defendant Daniel Defense, LLC’s (“Daniel”) Motion to Dismiss by asserting that such Motion, and Daniel’s jurisdictional arguments for dismissal thereunder, will be rendered moot upon this Court addressing a pending Ex Parte Motion for Leave to File Second Amended Complaint in Civil Action No.: 2:23-cv-00015-AM, ***J.P., a minor, et al. v. Uvalde Consolidated Independent School District, et al.***

In their pending Ex Parte Motion for Leave to File Second Amended Complaint. Plaintiffs set out sufficient grounds for the Court to provide Plaintiffs leave to amend its pleadings pursuant to the otherwise liberal amendment policy of Federal Rule of Civil Procedure 15(a)(2). Plaintiffs motion seeks to amend its complaint to add parties, Defendants’ Daniel Defense, Oasis Outback LLC, as well as federal defendants after satisfying the notice requirements of the Federal Tort Claims Act. Thus, Plaintiffs are seeking leave to amend in order to consolidate their two separate

pending actions into on one action that will significantly contribute to the Court's judicial economy and efficiency.

Thus, were the Court to grant Plaintiffs' Motion for Leave to Amend, Plaintiffs would henceforth and forthwith dismiss this present action, 2:23-cv-00014 and promptly serve their Second Amended Complaint on Defendants' Daniel Defense LLC, Oasis Outback LLC, as well as the entirety of name defendants including the newly named federal defendants under Case number, 2:23-cv-00015.

As such, Plaintiffs' Second Amended Complaint would sufficiently evoke this Court's subject matter jurisdiction over Daniel Defense and Oasis Outback on account of supplemental jurisdiction, 42 U.S.C. § 1367 wherein Plaintiffs' state law claims against Daniel Defense and Oasis Outback are substantially interrelated to the federal claims Plaintiffs have sought against Defendants, City of Uvalde, Uvalde's School District and various local, state and federal law enforcement agencies. See, Dkt. 15, 2:23-cv-00015. As such, the arguments raised in Daniel Defense's instant Rule 12(B)(1) Motion to Dismiss would be rightfully and lawfully accounted for.

Therefore, on account of Plaintiffs' pending Motion for Leave to File Second Amended Complaint, were this Court to grant Plaintiffs' Motion, Defendant Daniel Defense's instant Rule 12(b)(1) Motion will be rendered moot and this action will be dismissed without prejudice. Henceforth, Plaintiffs' claims against Defendants' Daniel Defense and Oasis Outback will be prospectively litigated under case number, 2:23-cv-00015. See, *Louisiana v. Bank of America Corp.*, 2020 U.S. Dist. LEXIS 122004, 2020 WL 3966875, at \*2 (M.D. La. July 13, 2020)(when a plaintiff seeks to amend following a motion to dismiss, "the preferred course is to grant leave to amend even if doing so renders moot the motion to dismiss, rather than granting the motion to

dismiss and rendering moot the motion for leave"); *Jefferson Community Health Care Centers, Inc. v. Jefferson Parish Gov't*, 2016 U.S. Dist. LEXIS 111391, 2016 WL 4429953, at \*2 (E.D. La. Aug. 22, 2016) (given the new allegations and claims in the amended complaint, it would be more efficient to deny pending motions to dismiss as moot and allow defendants to file renewed motions, addressing the amended complaint); *Biwen Liang*, 2018 U.S. Dist. LEXIS 45402, 2018 WL 1401801, at \*3 (E.D.N.Y. March 19, 2018) ("It is a far better conservation of . . . resources to permit the amendment . . . and let any order on a motion to dismiss determine the facial validity of the [] claim.").

### **CONCLUSION**

Upon the foregoing avouchment and analysis, Plaintiffs respectfully request that determination of Defendant Daniel Defense's Motion to Dismiss will be stayed pending this Court's consideration of Plaintiffs' Motion for Leave to File Second Amended Complaint and upon granting, deny said Motion to Dismiss as moot. Thereafter, Plaintiffs will move to dismiss its claims against Daniel Defense LLC and Oasis Outback LLC under No.: 2:23-cv-00014 in its entirety without prejudice.

DATED: April 3, 2023

Respectfully Submitted,

/s/ Charles A. Bonner

CHARLES A. BONNER, ESQ.

A. CABRAL BONNER, ESQ.

**LAW OFFICES OF BONNER & BONNER**

475 GATE FIVE RD, SUITE 211

SAUSALITO, CA 94965

TEL: (415) 331-3070

FAX: (415) 331-2738

[cbonner799@aol.com](mailto:cbonner799@aol.com)

[cabral@bonnerlaw.com](mailto:cabral@bonnerlaw.com)

RYDER LAW FIRM

JESSE RYDER (pro hac forthcoming)

6739 Myers Road  
E. Syracuse, NY 13057  
Tel: (315) 382-3617  
e-mail: [ryderlawfirm@gmail.com](mailto:ryderlawfirm@gmail.com)

EVANS LAW OFFICE P.P.L.C.  
JERRY EVANS  
127 N. West Street  
Uvalde, Texas 78801  
Tel: (830) 900-5021  
e-mail: [devanslawoffice@gmail.com](mailto:devanslawoffice@gmail.com)

Legal Center of Jose Angel Gutierrez, P.C.  
JOSE ANGEL GUTIERREZ  
429 W. 12th Street  
Dallas, Texas 75208  
Tel: 214-745-5400  
e-mail: [joseangelgutierrez@yahoo.com](mailto:joseangelgutierrez@yahoo.com)

THE BONNER LAW FIRM, P.C.  
VICTOR BONNER  
4820 Old Spanish Trail  
Houston, Texas 77021  
Tel: (832) 433-6565  
e-mail: [ymbonner@yahoo.com](mailto:ymbonner@yahoo.com)

**CERTIFICATE OF SERVICE**

I hereby certify that I have served a copy of the foregoing document upon the following counsel of record via CM/ECF electronic transmission this the 3rd day of April, 2023.

David M. Prichard, Esq.

E-mail: dprichard@prichardyoungllp.com

David R. Montpas, Esq.

E-mail: dmontpas@prichardyoungllp.com

**Prichard Young, LLP**

Union Square, Suite 600

10101 Reunion Place

San Antonio, Texas 78216

(210) 477-7400 [Telephone]

(210) 477-7450 [Facsimile]

COUNSEL FOR DEFENDANT,  
DANIEL DEFENSE, LLC F/K/A  
DANIEL DEFENSE, INC.

DATED: April 3, 2023

Respectfully Submitted,

/s/ Charles A. Bonner

CHARLES A. BONNER, ESQ.